

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Application by Verizon New England Inc.,	)	
Bell Atlantic Communications, Inc.,	)	
(d/b/a Verizon Long Distance), NYNEX	)	CC Docket No. 00-176
Long Distance Company (d/b/a Verizon	)	
Enterprise Solutions), and Verizon Global	)	
Networks Inc., for Authorization To Provide	)	
In-Region, InterLATA Services in Massachusetts	)	

**REPLY DECLARATION OF WILLIAM E. TAYLOR**

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## **I. INTRODUCTION**

1. My name is William E. Taylor. I submitted a Declaration in this proceeding on September 22, 2000. My qualifications are set forth in that declaration.

2. Verizon has asked me—as an economist—to evaluate the merits of comments relating to the public interest by AT&T and WorldCom, and declarations by A. Daniel Kelley (for WorldCom), Patricia Proferes, John Nolan, Paul Bobeczko, and Thomas Graham (for WorldCom), and David J. Kowolenko (for AT&T).

## **II. VERIZON’S ENTRY INTO THE INTERLATA MARKET WILL INCREASE LOCAL AND TOLL COMPETITION.**

### **A. Verizon’s Entry into the InterLATA Market Will Increase Local Competition.**

3. Verizon’s entry into the long-distance market in Massachusetts will increase local competition. As I explained in my initial Declaration, customers’ preferences for one-stop shopping and Verizon’s competition for bundled services will induce interexchange carriers to increase their offerings of local services to retain their long-distance business. Taylor Decl. ¶¶ 16-23. I also showed that local competition in New York increased substantially after Verizon’s long-distance entry in that state. *See* Taylor Decl. at ¶ 21. In the first seven months since Verizon’s entry in New York, the number of facilities-based lines increased 36 percent, the number of UNE platform lines increased 258 percent, and the number of resale lines increased 18 percent. During the same period, the number of stand-alone loops increased by 154 percent, the number of collocation sites by 60 percent, the number of ported numbers by 149 percent, and the number of interconnection trunks by 37 percent. *See* Att. A.

4. Verizon's ability to offer one-stop shopping will increase the incentive that interexchange carriers have to enter or expand in the local market to meet that competition and share in the premium that customers are willing to pay for one-stop shopping. Proferes, *et al.*, deny that a local exchange carrier's entry into the long-distance market influences WorldCom's local entry and expansion plans. Proferes, *et al.* Decl. ¶¶ 34-37.

5. The trouble with this assertion is that it is not at all credible. Dr. Kelley, also on behalf of WorldCom, explains that many customers are willing to pay a premium to get their local and long-distance service from the same provider and that Verizon would take away customers who prefer one-stop shopping from interexchange carriers. Kelley Decl. Att. 3 at 4-5. It is not credible that WorldCom would not take into account this crucial factor in its local service entry decisions. WorldCom's behavior, and that of other large interexchange carriers, in New York and Texas belie the assertion that Verizon's entry into long distance would have no important effect on local exchange competition. The two states in which WorldCom, AT&T and Sprint have been actively submitting large volumes of orders to support their local mass market offerings are New York and Texas — the only two states where Bell Operating companies ("BOCs") have been allowed to enter the long distance market. *See* Taylor Decl. ¶ 21. Moreover, the implication of Dr. Kelley's assumption is that the presence or absence of the incumbent local exchange carrier in the long-distance market should make a substantial difference in the business cases that support WorldCom's entry decisions. So either one must reject the assertion of Proferes, *et al.* (*i.e.*, that a local exchange carrier's entry into the long distance market does not influence WorldCom's decision to enter the local market), or one must conclude that consumers' one-stop shopping preferences are too mild to affect market

outcomes, in which case we have another reason to reject Dr. Kelley's argument that customers' one-stop shopping preferences would give Verizon an important advantage.

### **B. Verizon's Entry into the InterLATA Market Will Increase Toll Competition.**

6. My Declaration showed that Verizon's entry into the interLATA market will reduce long-distance prices. Taylor Decl. ¶¶ 6-15. Without support, Dr. Kelley asserts that the long-distance market is competitive. Kelley Decl. ¶ 53, Att. 3 at 3. To the contrary, the quantitative evidence is clear that the residential long-distance market is inadequately competitive, and consumers would benefit from the entry of an additional formidable competitor. The steady and substantial increase in long distance rates over the years demonstrates that the residential long distance market is not competitive. From 1991 to July 1999, AT&T raised basic interstate direct-dial rates by 204 percent.<sup>1</sup> Net of access charges and

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<sup>1</sup> In 1994, AT&T raised basic residential interstate interLATA rates twice. The first increase was 6.3 percent in January 1994 (*AT&T Proposes \$750 Million Rate Hike, New Calling Plan Aimed at High-Volume Residential Users*, Telecommunications Reports, January 3, 1994). The second increase was 3.7 percent in December 1994 (*AT&T and Rivals Boost Rates Further: Move Arms Critics Who Say Long Distance Market Needs More Competition*, Wall Street Journal, November 29, 1996 at A3). In 1995 the FCC reported, "... the record demonstrates that, since 1991, basic schedule rates for domestic residential service have risen approximately sixteen percent (in nominal terms), with much of the increase occurring since January 1, 1994." (*Motion of AT&T Corp. to Be Reclassified as a Non-Dominant Carrier*, Order, 11 FCC Rcd 3271, 3313 ¶ 81 (1995)). Therefore, we deduce that AT&T increased rates by  $1.16/(1.063 \times 1.037) - 1 = 0.05$  from 1991 through 1993. AT&T raised basic rates by an additional 4.3 percent in February 1996 (*AT&T to Raise Basic Prices an Average 40c a Month*, Bloomberg News Services, February 16, 1996). See also *AT&T Increases Basic Rates, Extends Discount Plans*, Telecommunications Reports, February 26, 1996 at 27; and 5.9 percent in December 1996 (*AT&T Follows MCI, Sprint with Long Distance Rate Increases*, Telecommunications Reports, December 2, 1996 at 5-6). The remaining rate changes from December 1996 to July 1999 we calculate from AT&T tariffs and data on residential calling patterns from PNR and Associates' "Bill Harvesting II" and *MarketShare Monitor*. We calculate that AT&T reduced direct-dialed rates by 8.3 percent on July 2, 1997, but raised them by 3.0 percent on November 8, 1997. By imposing two new fixed monthly charges of \$0.85 and \$0.93 per residential customer, AT&T increased interstate basic rates paid by its New York residential customers by 80.2 percent by July 1998. In November 1998, AT&T decreased residential basic rates by 1.4 percent by decreasing the price of weekend calls. In April 1999, AT&T imposed the requirement that all basic-rate customers must pay bills of at least \$3 per month; this requirement raised basic rates paid by AT&T's New York residential customers by another 28.7 percent. On July 1, 1999, AT&T decreased residential basic direct-dial interstate weekday rates by \$0.02 per minute, which reduced overall basic rates for its New York residential customers by 4 percent. Yet simultaneously it raised its "carrier line charge" to \$1.51 per month, and it raised its "universal connectivity

other fees that AT&T pays to serve its basic-rate customers, from 1991 to July 1999, AT&T increased basic rates by \$0.315 per conversation minute, or 502.5 percent.<sup>2</sup> Figure 1 shows the increases in residential interstate basic rates and the changes in access charges and other fees that AT&T pays to serve its basic-rate customers.<sup>3</sup>

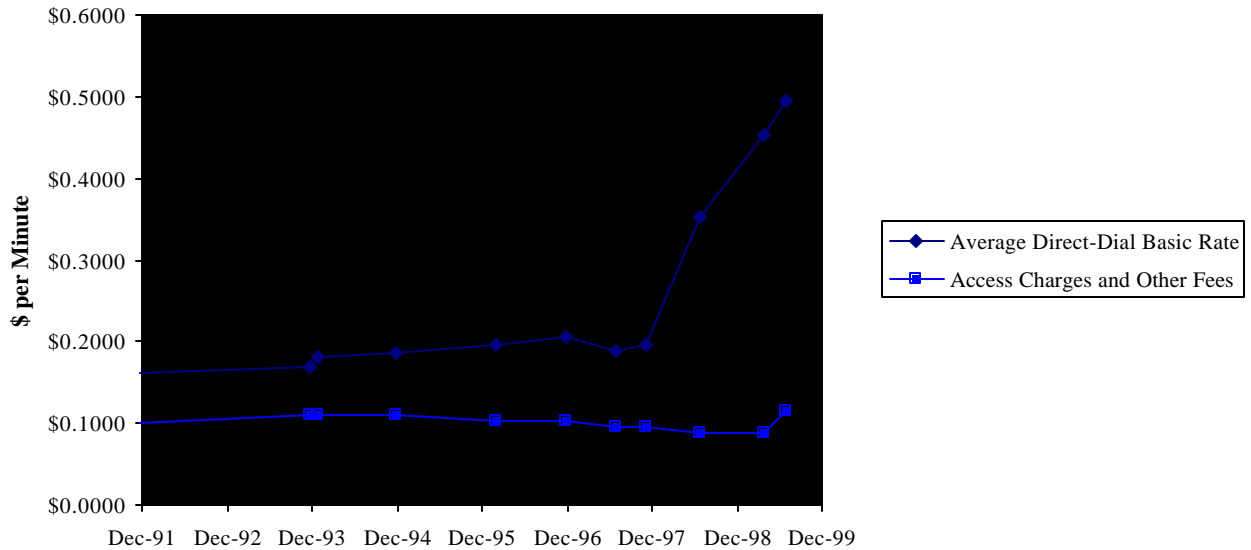
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charge” to \$0.99 per month. The latter actions raised the average price paid by New York residential basic-rate customers by \$0.05 per minute, or 12 percent. The net effect of the various July 1 price changes was an increase of 9.8 percent. The cumulative increase in basic rates from 1991 to July 1999 was  $1.05 * 1.063 * 1.037 * 1.043 * 1.059 * (1 - 0.083) * 1.030 * 1.802 * (1 - 0.014) * 1.287 * 1.098 - 1 = 2.04$ .

<sup>2</sup> William E. Taylor, Declaration, *Application by New York Telephone Company (d/b/a Bell Atlantic – New York), Bell Atlantic Communications, Inc., NYNEX Long Distance Company, and Bell Atlantic Global Networks, Inc., for Authorization to Provide In-Region, InterLATA Services in New York*, CC Docket 99-295 (September 29, 1999) ¶ 20 (“Taylor – New York Decl.”). From 1991 to July 1999, per-minute access charges fell from \$0.0697 to \$0.0282 per conversation minute. (Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, *Trends in Telephone Service* (September 1999), Table 1.2. These figures are the U.S. average for all local exchange carriers, and they show the sum of originating and terminating switched access charges.)

<sup>3</sup> AT&T’s residential basic-rate customers have lower average interstate usage than other residential customers. Thus, fixed monthly access fees charged to the interexchange carriers weigh much more heavily for basic-rate customers than for customers as a whole. Over the period 1991 to July 1999, per-minute access charges fell by 60 percent, while the FCC raised average fixed monthly fees per line by about 170 percent. The net result for AT&T’s New York residential customers was a 15.8 percent *increase* in access charges and other fees for basic-rate customers but a 30 percent *decrease* for customers as a whole. Included in those calculations is the dramatic restructure on July 1, 1999. On that date, the local exchange carriers reduced per-minute access charges by about \$0.009 per conversation minute, or 24 percent. But the FCC also significantly increased the universal service assessment recovered through access rates and authorized increases in the PICC, which raised the average PICC attributable to AT&T’s New York residential customers by \$0.49 per customer, or 80 percent. For residential plus business customers combined, the net effect was a rate reduction. For low-usage customers, however, effective access charges rose: for AT&T’s New York residential customers, average access charges plus other fees rose only 0.7 percent, but they increased by 32.7 percent for residential basic-rate customers.

**Figure 1**  
**AT&T Raised Interstate Residential Basic Rates Relative To Access**  
**Charges and Other Fees**



7. AT&T imposed its largest rate increases in 1998 and 1999, even while it and other interexchange carriers were asserting that the interexchange market was adequately competitive. About 60 percent of AT&T's subscribers do not enroll in one of the company's calling plans, and, instead, pay AT&T's basic rates. *See* J. Files, *Dialing for Dollars*, Dallas Morning News, January 26, 1999 at 1D. Given this substantial percentage of basic rate customers, any claim that basic rates are irrelevant should be disregarded.<sup>4</sup>

8. The average price actually paid by AT&T's residential customers as a whole for interstate domestic direct-dial minutes, *accounting for discounts*, increased by about \$0.053 per

<sup>4</sup> See also Taylor – New York Decl., *op. cit.*, ¶ 14, based on an analysis of data from *MarketShare Monitor*, *op. cit.* In addition, according to a study by the consumer group United Homeowners Association, 60.1 percent of households in the nation—customers of all long-distance carriers combined—pay basic rates. (Pradnya Joshi, *The Big Savings Maze*, Newsday, January 11, 1998 at F8.)

conversation minute, or 36 percent from 1991 to July 1999.<sup>5</sup> Yet during the same period, the access costs and other fees that AT&T paid to serve residential customers as a whole declined by \$0.023 per conversation minute, or 30 percent. AT&T's average price for interstate direct-dialed minutes paid by residential customers as a whole—net of access charges and other fees—increased by \$0.076 per conversation minute, or 108 percent.<sup>6</sup> In the New York Section 271 proceeding, AT&T presented data that, although carefully disguised, confirmed that AT&T raised residential prices relative to access charges and other fees.<sup>7</sup>

9. If the interexchange market were truly competitive, then AT&T would have passed through the reductions in interstate access charges and other fees from which it has profited since 1991. Yet, as of July 1999, only one percent of AT&T's residential customers were paying prices that were as low as what AT&T's average rates would have been if only AT&T had passed through the reductions in access charges and other fees.<sup>8</sup>

10. Some parties might claim that implementing the FCC's Coalition for Affordable Local and Long Distance Service ("CALLS") Order reverses AT&T's price increases. However, even if one looks only at the changes in per-minute basic rates, excluding any fixed monthly charges, AT&T increased residential basic rates by about 39 percent from 1991 to

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<sup>5</sup> Taylor – New York Decl., *op. cit.*, ¶ 16.

<sup>6</sup> Taylor – New York Decl., *op. cit.*, ¶ 19.

<sup>7</sup> Taylor – New York Decl. Att. A. The AT&T data that I analyzed in the New York 271 proceeding came from R. Glen Hubbard and William H. Lehr, Affidavit on Behalf of AT&T Corp., *Application by New York Telephone Company (d/b/a Bell Atlantic – New York), Bell Atlantic Communications, Inc., NYNEX Long Distance Company, and Bell Atlantic Global Networks, Inc., for Authorization To Provide In-Region, InterLATA Services in New York*, CC Docket 99-295, Att. 8.

<sup>8</sup> Taylor – New York Decl., *op. cit.*, ¶ 28.



August 2000.<sup>9</sup> If AT&T only passed through the cost reductions it received from the CALLS order, then its average increase in prices net of access charges and other fees for residential customers as a whole remains unaffected.

11. Evidence of lower residential prices after local exchange carrier entry into the long-distance market confirms that, absent such entry, the residential long-distance market is inadequately competitive. In Connecticut, following SNET's long-distance entry, the prices actually paid by SNET's residential customers were 24 percent lower than those paid by AT&T's Connecticut customers for a comparable volume of calling. Taylor Decl. Att. C ¶¶ 1-2. Similarly, the actual prices paid by AT&T's customers in Connecticut were 24 percent lower than AT&T's customers in New York. Taylor Decl. Att. C ¶ 3. Also, ninety-seven percent of AT&T's residential customers in New York would have paid less for their interstate direct-dialed calls under Verizon's Timeless calling plan than they paid to AT&T in July 1999. Taylor Decl. ¶ 11. These customers would have saved an average of 46 percent off their AT&T interstate bill under Verizon's Timeless rates. *Id.*

12. The above comparison between the long-distance prices actually paid by long-distance customers of the newly-entered local exchange carriers and the prices actually paid by AT&T customers is particularly probative since AT&T has such a large sector of the market. However, Verizon's long distance rates are also more attractive than WorldCom rates for most residential customers. Contrary to WorldCom's claim that its "9 Cents Anytime" plan "is

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<sup>9</sup> AT&T increased basic per-minute rates (as distinguished from the \$3 monthly minimum, the carrier line charge, and the universal service charge) by about 13 percent from 1991 to July 1999. (Computed from fn. 1.) Based on the share of residential traffic among AT&T's three rate periods (per data from *MarketShare Monitor, op. cit.*), AT&T's increase in basic per-minute rates in August 2000 was about 23 percent. Thus, its cumulative rate increase from 1991 to July 1999 was about 39 percent.  $(1.13 \times 1.23 - 1 = 0.39)$

preferable at most levels of usage to the Verizon ‘Timeless’ plan flat rate of \$0.10/minute,” because of WorldCom’s \$5.00 usage minimum on its plan, 67 percent of AT&T’s residential customers would have paid more under WorldCom’s calling plan than under Verizon’s calling plan.<sup>10</sup> Proferes, *et al.* Decl. ¶ 13, Kelley Decl. ¶ 53.

13. AT&T’s most popular optional calling plan has been AT&T One Rate<sup>®</sup>, which charges \$0.15 per minute for interstate direct-dialed calls. In 1999, that calling plan charged \$0.14 per minute for New York intrastate interLATA calls and \$0.08 per minute for intrastate intraLATA calls.<sup>11</sup> But a customer signing up for AT&T’s One Rate plan now will pay only \$0.10 per minute for New York intrastate interLATA calls<sup>12</sup> and \$0.06 per minute for intrastate intraLATA calls.<sup>13</sup>

14. Similarly, in Texas, where AT&T faces competition from Southwestern Bell’s long-distance affiliate, AT&T’s intrastate interLATA price for residential calling-plan customers is only \$0.07. Yet, for example, its intrastate interLATA calling-plan rate in Arkansas, absent that competition, is almost twice as high—\$0.12 per minute.<sup>14</sup> This is true although intrastate access charges are about \$0.060 per minute in Texas and only about \$0.047

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<sup>10</sup> This evidence is based on an analysis of calling data from *MarketShare Monitor*, *op. cit.*

<sup>11</sup> See United Communications Group, Telview Express tariff database, showing AT&T tariff rates effective April 30, 1999, [http://www.telview.com/te\\_archive/te\\_03\\_36/te\\_html/te\\_prod.htm](http://www.telview.com/te_archive/te_03_36/te_html/te_prod.htm).

<sup>12</sup> See AT&T Website, *In-State Rate Finder*, [http://www.shop.att.com/offer/isrf.jhtml;\\$sessionid\\$SHM4MUIAAAHJE5YAAAASELY?planCode=or7](http://www.shop.att.com/offer/isrf.jhtml;$sessionid$SHM4MUIAAAHJE5YAAAASELY?planCode=or7) (accessed November 1, 2000).

<sup>13</sup> See AT&T Website, *Local Toll Service*, [http://www.shop.att.com/offer/ltl\\_result.jhtml?found=y&\\_requestid=14860&portal=](http://www.shop.att.com/offer/ltl_result.jhtml?found=y&_requestid=14860&portal=) (accessed November 1, 2000).

<sup>14</sup> See AT&T Website, *In-State Rate Finder*, [http://www.shop.att.com/offer/isrf.jhtml;\\$sessionid\\$NORPYIAAAC1N05YAAAASEMA?planCode=or5](http://www.shop.att.com/offer/isrf.jhtml;$sessionid$NORPYIAAAC1N05YAAAASEMA?planCode=or5) (October 19, 2000). AT&T’s intrastate rates quoted above are for calling-plan customers only. Its intrastate rates for basic-rate customers are substantially higher than those rates in both states.

per minute in Arkansas.<sup>15</sup> As another example, AT&T's intrastate rate in Missouri is over twice as high as it is in Texas—\$0.15 per minute;<sup>16</sup> yet, intrastate access charges in Missouri are about the same as in Texas.<sup>17</sup>

15. Dr. Kelley asserts that “Previous efforts by Dr. Taylor to demonstrate that long distance pricing is not competitive have been thoroughly rebutted elsewhere.” Kelley Decl. ¶ 53, fn. 47 (*citing* Study by R. Carter Hill and T. Randolph Beard). Apparently, he believes that all that is needed to demonstrate that the long-distance market is competitive is to cite a paper that attempted to rebut a single analysis of one MCI rate change that occurred in 1998. I disagree that such a showing is sufficient or even significant. For the record, I, in turn, thoroughly analyze and refute that attempted rebuttal in Attachment B. Regardless of how observers might evaluate that sequence of analyses, the more important and compelling evidence of the inadequate competition in the residential long distance market is what I document above in this section: AT&T has imposed on residential customers long-term, systematic increases in prices, and consumers have benefited from major reductions in prices wherever local exchange carriers have entered the long-distance market.

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<sup>15</sup> Sharon L. Mullin, testimony on behalf of AT&T, before the Arkansas Public Service Commission, *The Application of Southwestern Bell Telephone Company for Authorization To Provide In-Region InterLATA Service Pursuant to Section 271 of the Telecommunications Act of 1996 and for Approval of the Arkansas 271 Interconnection Agreement*, Docket No. 00-211-U (October 16, 2000) at 11-12.

<sup>16</sup> See AT&T Website, *In-State Rate Finder*, [http://www.shop.att.com/offer/isrf.jhtml;\\$sessionid\\$NORPYIAAAC1N05YAAAASEMA?planCode=or5](http://www.shop.att.com/offer/isrf.jhtml;$sessionid$NORPYIAAAC1N05YAAAASEMA?planCode=or5) (September 4, 2000).

<sup>17</sup> R. Matthew Kohly, testimony on behalf of AT&T, before the Missouri Public Service Commission, *Application of Southwestern Bell Telephone Company To Provide Notice of Intent to File an Application for Authorization To Provide In-Region InterLATA Services originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996*, Docket No. TO-99-227, at 11-12.

### **III. OBJECTIONS TO VERIZON'S NOW-SUPERSEDED UNE RATES IN MASSACHUSETTS ARE MOOT.**

16. Several parties claim that the Commission should reject Verizon's application because its UNE switching rates in Massachusetts are too high. AT&T at 2-4, Bryant Decl., Kelley Decl. ¶¶ 31-34, Proferes, *et al.* Decl. ¶¶ 22-32, and WorldCom at 9-28.

17. This argument is now moot. On October 13, 2000, Verizon filed and the Massachusetts DTE accepted substantially lower UNE switching rates than Proferes, *et al.*, analyze. In particular, the new local switching rates are 49 percent lower than the rates they complain about and significantly lower than the Z-Tel promotional rates they also analyze.<sup>18</sup> In addition, the new transport rates range between 25 and 56 percent lower than before, and the line port rate is 57 percent lower than before. Accounting for differences in rate structures, density zones, and rate periods in the two states, these new rates are equal to Verizon's rates in New York,<sup>19</sup> which the New York Public Service Commission and the FCC accepted as being TELRIC-based and satisfying the Checklist.<sup>20</sup> If AT&T and MCI's own arguments are to be accepted, the implications of this rate change are that the volume of UNE-P lines should increase dramatically and that the illustrative analyses of Proferes, *et al.*, comparing retail revenues and UNE-P prices vastly understate the profitability of UNE-P competition as of

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<sup>18</sup> Letter, with rate analysis, Dee May (Verizon, Executive Director Federal Regulatory) to Magalie Roman Salas (Secretary, Federal Communications Commission), *Ex Parte, Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 00-176 (October 18, 2000).

<sup>19</sup> Letter with copy of tariff filing, Gordon R. Evans (Verizon, Vice President Federal Regulatory) to Magalie R. Salas (Secretary, Federal Communications Commission), *Ex Parte, Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 00-176 (October 13, 2000).

<sup>20</sup> See *Application by New York Telephone Company (d/b/a Bell Atlantic – New York), Bell Atlantic Communications, Inc., NYNEX Long Distance Company, and Bell Atlantic Global Networks, Inc., for Authorization To Provide In-Region, InterLATA Services in New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, ¶ 238 (1999).

October 13, 2000. WorldCom evidently agrees. It testified that price was the only thing keeping it out of the Massachusetts local exchange market:

The purpose of my testimony today is to help you understand why WorldCom cannot be in Massachusetts as a competitive local-exchange carrier. Pricing is definitely the issue that is stopping us from entering.<sup>21</sup>

18. Moreover, these analyses make the wrong comparison. Serving residential customers is profitable on average for Verizon or for CLECs primarily because many customers purchase bundles that include high margin services such as toll, carrier access and vertical services. As long as the UNE prices that CLECs pay approximate Verizon's costs, UNE-based competition for those customers will be efficient. While Verizon's regulated retail prices may be too low to ensure that CLECs can profitably serve residential customers who only purchase basic exchange service, the same is true of Verizon, and CLECs are not placed at a competitive disadvantage by such pricing.

#### **IV. LOCAL COMPETITION IN MASSACHUSETTS DEMONSTRATES THAT THE MARKET IS OPEN.**

##### **A. The Local Market in Massachusetts Is Open.**

19. Verizon provided substantial evidence that its local market is open in Massachusetts. As detailed in the Local Competition Report attached to my initial Declaration, competing carriers have entered the market on a large scale and are continuing to do so. In particular, Verizon demonstrated that through July of this year competitors are serving approximately 676,000 lines in Massachusetts: more than 418,000 lines over their own facilities, approximately 12,000 through unbundled element platforms, and approximately

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<sup>21</sup> See Massachusetts Oral Argument, Tr. 4629 (August 22, 2000).

246,000 through resale. *See* Taylor Decl. Att. A ¶ 1. And this competition continues to grow: through September, competitors are serving a very conservatively estimated 731,000 lines, more than 466,000 of which are facilities-based. The comparison between July and September shows an increase of eight percent in total lines and an increase of eleven percent in facilities-based competition during the August and September months. Verizon also demonstrated that competitors are serving both residential and business customers. *Id.*

20. Moreover, in many respects, local competition is more advanced in Massachusetts than it was in other states at the time of their applications for interLATA relief. In fact, Massachusetts has more competition than New York did before its Section 271 approval. *See* Att. C. In particular, as of July, competitors in Massachusetts served 500 percent more facilities-based residential lines than they did in New York at the time of Verizon's application in proportion to the number of residential lines in these states. Competitors also serve 71 percent more resale lines in Massachusetts than they did in New York at the time of the New York application and 33 percent more residential resale lines than they did in New York, in proportion to the number of access lines in these states. Other forms of competition are also more advanced in Massachusetts than they were in New York on a proportional basis: Massachusetts has 160 percent more stand-alone loops; 192 percent more ported numbers; 116 percent more interconnection trunks; 437 percent more collocation sites; and 241 percent more NXX codes. *See* Att. C. Even the U.S. Department of Justice acknowledged that the overall "level of CLEC penetration is greater than the level in either

New York or Texas at the time applications were filed in those states.”<sup>22</sup> Table 1 shows the Department of Justice’s comparison:

Table 1

<b>State</b>	<b>CLEC Penetration</b>
New York	8.9%
Texas	8.0%
Massachusetts	11.0%

The Department of Justice recognized, Massachusetts has more competitive lines than New York did prior to section 271 approval—over 50 percent more, in proportion to the number of access lines in the state. Looking at the same evidence as Dr. Kelley, the Justice Department found that “there is significant entry in Massachusetts by facilities-based carriers and resellers serving business customers,” and that it “is particularly pleased to see a major commitment to facilities-based residential competition by AT&T Broadband and RCN.”<sup>23</sup> A more detailed comparison of Massachusetts and New York CLEC penetration is shown in Attachment C.

21. Notwithstanding this evidence of competitive activity, Dr. Kelley attempts to show that local competition is not well developed in Massachusetts by using his own methodology to convert these measures of CLEC volumes to market penetration levels for CLEC facilities, UNEs and resale. Kelley Decl. ¶¶ 8-12. There are several problems with these calculations. First, no particular level of market penetration is necessary to conclude that the local exchange market is open to competition in Massachusetts. Second, presenting penetration estimates separately for each of four types of competitors allows Dr. Kelley to

<sup>22</sup> Evaluation of the United States Department of Justice, *In the Matter of Application by Verizon New England Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 00-176, (“DOJ Evaluation”) at 4, fn.13.

<sup>23</sup> DOJ Evaluation at 2.

dismiss each type of competition as “relatively undeveloped” or “extremely limited,” while, in aggregate, Dr. Kelley’s own numbers sum to a penetration loss for Verizon of 11.2 percent of its access lines. Third, the access lines presented in Table 1 of Attachment A to my initial Declaration—the numerator of Dr. Kelley’s penetration estimates—do not purport to represent total competitor access lines in Massachusetts. As stated in footnote 2 of that attachment, this calculation of facilities-based lines is conservative because it uses the number of E911 subscriber listings as the measure of competitors’ lines. Each E911 listing can correspond to multiple customer access lines; in particular, multi-line residential customers may have only one E911 listing, and business customers may have hundreds of access lines at a location corresponding to a single E911 listing. Fourth, Dr. Kelley’s method of estimating Verizon access lines by wire center may overstate June 30, 2000 line counts because it grows 1999 line counts to correspond to June 30, 2000 levels by growth rates measured between 1996 and 1999—*i.e.*, before competitive losses became significant. Overstating Verizon’s access lines by wire center would bias downward the penetration rates in Dr. Kelley’s Tables 1 through 4.

## **B. AT&T’s Cable Telephony Competitive Threat Is Potent.**

22. AT&T and Mr. Kowolenko attack my statement (Taylor Decl. Att. A ¶ 19) that “AT&T’s cable network in Massachusetts—which has been upgraded to provide telephony services—serves 2.1 million cable subscribers in the Boston area and 38 suburbs, and passes approximately 80 percent of all Massachusetts households.” AT&T at 8-12, Kowolenko Decl. ¶¶ 2-9.

23. AT&T claims, “Mr. Taylor substantially overstates AT&T’s cable coverage in Massachusetts, and radically overstates AT&T’s ability to serve Massachusetts customers with



a cable *telephony* offering today.” AT&T at 9. More specifically, AT&T says, “AT&T Broadband serves only 1.1 million customers, or about half the amount claimed by Mr. Taylor, and none in Boston. Moreover, according to the DTE, there were only 1.93 million cable subscribers *in the entire state* at the end of 1999.” AT&T at 10, *see also* Kowolenko Decl. ¶ 4. I did not mean to imply that AT&T has 2.1 million subscribers, but rather that AT&T’s cable network passes 2.1 million homes. The Verizon Brief makes this clear: “AT&T provides residential telephone service over its cable networks in Massachusetts—networks that already reach more than two million cable subscribers in the State.” Verizon Massachusetts 271 Brief at 5.

24. AT&T and Kowolenko further claim that AT&T’s cable network does not yet pass 2.1 million subscribers in the state, but only 1.67 million. AT&T at 10, Kowolenko Decl. ¶ 6. As AT&T and Kowolenko note, the difference between my 2.1 million figure and their 1.67 million figure is that my figure attributes Cablevision’s systems in Massachusetts to AT&T. AT&T at 11, Kowolenko Decl. ¶ 6. AT&T and Kowolenko claim that this deal “has not yet been finalized.” *Id.* But AT&T recently told the FCC that the deal “will soon close,”<sup>24</sup> and in this analysis, we must be forward-looking to measure the effects on local and long distance markets of Verizon’s (future) entry into long distance.

25. AT&T and Kowolenko claim that I exaggerate the extent to which its network is cable telephony ready. AT&T at 9-12, Kowolenko Decl. ¶ 5. I did not say how much of AT&T’s network was cable ready, and I did not say it was all upgraded. The only real quibble is how much AT&T will accomplish and how quickly, which only AT&T knows for sure.

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<sup>24</sup> Letter from Douglas G. Garrett, AT&T Senior Regulatory Counsel, to Magalie Roman Salas, Secretary FCC, *Ex Parte* Filing, CS Docket No. 99-251 (September 7, 2000).

According to the Governor of Massachusetts, the majority of Massachusetts cable subscribers (90 percent) should be upgraded for telephone service by 2001.<sup>25</sup> Other interexchange carriers also acknowledge the competitive potential of cable telephony in Massachusetts. Dr. Kelley admits, on behalf of WorldCom, that, “[c]ompared to many other states, Massachusetts is relatively well positioned for cable telephony competition. . . . Compared to other cable systems (including many of the former TCI systems now owned by AT&T), the MediaOne systems that AT&T acquired are relatively well positioned for cable telephony because most of them have been upgraded to provide two-way capability, although not necessarily to provide telephone services.” Kelley Decl. ¶ 19.

26. Dr. Kelley claims that providing cable telephony is expensive.<sup>26</sup> Kelley Decl. ¶ 23. However, his cost estimates are significantly less than the costs of providing telephony to residential customers using a telephone company’s architecture and technology. This fact is reinforced by the fact that, nationally, cable telephony has been AT&T’s preferred technology for providing local and carrier access service to residential customers.<sup>27</sup> And based on what AT&T has told Wall Street, industry analysts expect AT&T to commit substantial resources to upgrading its network to handle two-way communications. A recent Morgan Stanley report

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<sup>25</sup> “Governor Paul Cellucci told conference attendees that by 2001, upgraded 750-megahertz cable systems that can carry fast Internet traffic and telephone calls will be available to 90 percent of Massachusetts cable subscribers. Cellucci vowed to limit the state’s role to ‘facilitator, educator and, whenever necessary, referee’ to avoid stifling innovation.” Peter J. Howe, *Cable Firms Bullish on Prospects for Net Business*, Boston Globe, July 15, 1999, at D5.

<sup>26</sup> Mr. Kowolenko also discusses the costs of installing cable telephony, but his description is qualitative. See Kowolenko Decl. ¶¶ 7-8.

<sup>27</sup> See AT&T Comments at 9. (stating “It is certainly true that AT&T’s preferred strategy for entering local markets is through the use of its own facilities, in lieu of relying on facilities provided by the incumbent whose monopoly it is attempting to break. That strategy was a primary factor behind AT&T’s purchase of TCI and MediaOne.”) It is unclear how AT&T’s recent decision to divide into four separate companies impacts its cable telephony strategy. But because AT&T still holds significant cable assets, it continues to have at least the capacity to upgrade those facilities to provide cable telephony.

stated that it expected AT&T “to spend \$5.2 billion in total capital in 2000, and [o]f this total, \$3.7 billion is expected to go toward rebuilding and upgrading systems to 750 MHz and two way.” *See Morgan Stanley Dean Witter Equity Research Report, Company Update, October 4, 2000.* And by the end of second quarter this year, 63% of AT&T's network was already capable of handling two way communication. *Id.*<sup>28</sup>

**V. ANTICOMPETITIVE ACTIONS IN THE LONG-DISTANCE MARKET ARE UNLIKELY.**

**A. Verizon Has No Incentive To Conduct a Price Squeeze in Long-Distance Service.**

27. In many other similar proceedings, interexchange carrier witnesses repeatedly assert that, if a local exchange carrier were to enter the long-distance market, it would have an anticompetitive advantage in the long-distance market and/or would conduct a price squeeze against its long-distance competitors. They base such arguments on the assumption that access charges exceed the local exchange carrier's cost of providing the access. The FCC has concluded that the Bell operating companies' interstate access charges are now about equal to costs, so the only basis remaining for such arguments is the level of intrastate access charges. Dr. Kelley presents a lengthy discussion of this issue, but he fails to present any evidence that Verizon's intrastate access charges in Massachusetts exceed costs, so we are left with the ambiguity of whether the theoretical problem he alleges is in fact large, small, or nonexistent. Kelley Decl. Att. 3.

28. In other proceedings, most such witnesses have simply asserted the proposition that, if access charges exceed costs, then the local exchange carrier would conduct a price

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<sup>28</sup> Such two-way communication is a vital, though not sufficient, component of providing cable telephony.

squeeze or would have an anticompetitive advantage without explaining why it should be so. Some witnesses have described a scenario in which some number of minutes are alternatively carried by an unaffiliated long-distance carrier or a local exchange carrier's long-distance affiliate. In the latter case, witnesses have argued that the local exchange carrier and its long-distance affiliate would make more profits than its long-distance competitors would, so the local exchange carrier has an incentive to conduct a price squeeze. I used a simple model to refute that erroneous theory. Taylor Decl. Att. B ¶¶ 2-8. As I illustrated in that model, the only valid way to analyze that scenario is to examine the local exchange carrier's *change* in profit if its long-distance affiliate takes away business from a rival.<sup>29</sup> I showed that the local exchange carrier could not increase its profit by taking business away from a rival so long as the long-distance market is competitive.

29. Given the model's assumptions, Dr. Kelley concedes my result, although, as discussed below, he claims that the assumptions do not apply to Verizon. Kelley Decl. Att. 3 at 6. In this model, any contribution the local exchange carrier receives from access continues regardless of the long-distance affiliate's actions. Historically, state regulatory commissions have used this contribution to keep residential basic local exchange rates low. This fixed contribution gives Verizon no competitive advantage in the long-distance market any more than

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<sup>29</sup> Dr. Kelley claims that I argue "that a price squeeze is not profitable to Verizon because it can, in effect, extract the maximum profit its access monopoly provides without offering the final service. This is a restatement of the old economic idea, associated with Spengler (1950), that any essential input monopoly need not integrate forward in order to extract all potential profits." Kelley Decl., Att. 3 at 2. This characterization of my proof is a gross distortion. Even setting aside competitive pressures, Verizon has no ability "to extract the maximum profit" or "all potential profits" because access charges are regulated. Access charges are far below the level that an unconstrained monopolist would choose.

AT&T's profits from its cable television operations give it a competitive advantage in the long-distance market.

30. Dr. Kelley comments on my discussion of a second theory in which a local exchange carrier would increase its profits if its long-distance affiliate expands the long-distance market by more than it would as a stand-alone enterprise. Kelley Decl. Att. 3 at 2-4 citing Taylor Decl. Att. B ¶¶ 9-11. I explained that "careful research shows conclusively that, for a wide range of reasonable assumptions, the entry of a vertically integrated BOC would cause an *increase* in consumer plus producer surplus, even if the BOC affiliate were less efficient than its rivals." Taylor Decl. Att. B ¶ 11. However, Dr. Kelley ignores this usual economic standard of benefits. He stresses instead that competitors would lose market share. He claims, without support, that the long-distance market is already competitive, so interexchange carriers cannot simply match the local exchange carrier affiliates' lower prices. In Section II.B above, I presented conclusive evidence that the residential long-distance market is inadequately competitive. Further, the facts belie Dr. Kelley's claim: AT&T *has* decreased its prices when faced with more intense competition. Twice AT&T and MCI unsuccessfully<sup>30</sup> petitioned the FCC for authority to deaverage interstate long distance prices to meet competition, first from SNET in Connecticut<sup>31</sup> and second from Verizon in the New York-New

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<sup>30</sup> *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Report and Order, 11 FCC Rcd 9564 (1996).

<sup>31</sup> AT&T Comments at 29, *Market Definition, Separations, Rate Averaging and Rate Integration, Policy and Rules Concerning the Interstate, Interexchange Marketplace & Implementation of Section 254(g)*, CC Docket No. 96-61 (FCC filed April 19, 1996) ("AT&T Rate Averaging Comments"); AT&T Corp.'s Petition for Reconsideration, *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96-61, at 2-5 (FCC filed Sept. 16, 1996) ("AT&T Petition for Reconsideration"). MCI Comments at 32, *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96-61 (filed April 19, 1996).

Jersey corridor.<sup>32</sup> Section II.B shows that AT&T's New York intrastate toll prices are much lower than they were in 1999, and AT&T's Texas intrastate toll prices are now much lower than they are in other states in the region that are not yet subject to SBC's competition. In Connecticut, AT&T reduced its intrastate prices to 5 cents per minute for its interstate customers in a promotion to compete with SNET's long distance affiliate.<sup>33</sup> Thus, Kelley's argument is inconsistent with the facts.

31. A useful way to think about the issue is to suppose that intrastate access charges exceed costs, that the local exchange carrier's long-distance affiliate and its rivals are equally efficient, and that the long-distance market is fully competitive.<sup>34</sup> How can the local exchange carrier increase profits? We have already seen from the simple model that it cannot increase profits by having its long-distance affiliate take business away from a competitor. It can only increase profits by having its long-distance affiliate stimulate the total number of intrastate minutes in the market, whether carried by the affiliate itself or by other interexchange carriers: with greater minutes in the market as a whole, the local exchange carrier increases the contribution from intrastate access charges. Thus, the affiliate will develop new services, uncover new applications for long-distance services, make services easier for customers to use, and, yes, stimulate lower market prices. But it will do so only to stimulate increases in total market demand, not to take business away from other carriers, since taking business away from

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<sup>32</sup> AT&T, Petition for Waiver and Request for Expedited Consideration, *AT&T Petition for Waiver of Section 64.1701 of the Commission's Rules*, FCC CC Docket No. 96-26, filed October 23, 1996, at 3 fn. 3 and Attachment A; MCI Comments, filed November 18, 1996, at 1.

<sup>33</sup> *AT&T Offers 5 Cent Rate in Connecticut*, Business Wire, May 1996.

<sup>34</sup> I make the assumption that the long-distance market is competitive solely for simplicity and so we can isolate what assumptions drive the results. As discussed in Section II-B, there is strong evidence that the residential long-distance market is inadequately competitive.

its rivals will not increase corporate profit.<sup>35</sup> The best scenario for the local exchange carrier is if the competition induced by its affiliate were to induce all its rivals to lower their prices and otherwise stimulate every interexchange carriers' demand. In that case, the incumbent local exchange carrier would profit from increased carrier access traffic, while it would gain nothing if its affiliate simply took business away from its rivals. Thus, Dr. Kelley's assertion that "the ILEC can benefit from taking retail business from the long distance carrier instead of selling overpriced access" is incorrect when the ILEC's affiliate is equally efficient and the long distance market is competitive. Kelley Decl. Att. 3 at 3.

32. Dr. Kelley also claims that, assuming Verizon has priced its UNEs above cost and retains a monopoly over local service and access, Verizon can conduct a price squeeze for *bundled* local and long-distance service. Kelley Decl. Att. 3 at 1-2, 5-8. Given those assumptions, what drives Dr. Kelley's conclusion is that customers are willing to pay a premium to have their long-distance and local service be provided by the same company. (That willingness to pay a premium is the economist's interpretation of the widely-discussed preference of many customers for one-stop shopping,<sup>36</sup> although there are some dissenters regarding that preference.<sup>37</sup>) Dr. Kelley assumes that Verizon makes additional profits because

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<sup>35</sup> If the long-distance market price exceeds costs, then the affiliate *will* increase corporate profit by taking business from rivals. However, that welfare-improving action is caused by the rivals' having market power, not by access charges that exceed costs.

<sup>36</sup> Proferes, *et al.*, support consumers' preference for one-stop shopping. Proferes, *et al.* Decl. ¶¶ 6-7.

<sup>37</sup> There are at least two dissenting voices. Two AT&T witnesses have claimed that many customers prefer to receive their interLATA and local services from different providers. See Wuaneta B. Browne, testimony on behalf of AT&T, before the Oklahoma Corporation Commission, *Application of the Attorney General of the State of Oklahoma, AT&T Communications of the Southwest, Inc., Brooks Fiber Communications of Tulsa, Inc., Cox Oklahoma Telcom, Inc., MCI Telecommunications Corporation, and Sprint Communications, L.P. To Explore Southwestern Bell Telephone Company's Compliance with Section 271(c) of the Telecommunications Act of 1996*, Cause No. PUD 970000560 (August 17, 2000) at 18. See also, "Kansans do not want to lose their ability to mix and match local and long distance carriers." Robert P. Flappan, testimony on behalf of AT&T, before the Kansas State Corporation Commission, *Southwestern Bell Telephone Company-Kansas' Compliance*

of the willingness of customers to pay a premium for one-stop shopping. Dr. Kelley acknowledges that customers would be better off by being able to receive one-stop shopping from Verizon, but he claims that this situation is undesirable because other interexchange carriers lose market share. Kelley Decl. Att. 3 at 7.

33. A fatal flaw in his argument is that his premises are false. First, the Massachusetts DTE approved UNE rates that “unquestionably are based on the TELRIC of providing those elements.”<sup>38</sup> Furthermore, Verizon filed for and the Massachusetts DTE approved even lower rates, which, as discussed above, are equal to those in New York. New York’s UNE rates have stimulated large UNE purchases in that state. Second, as demonstrated by competitive inroads into local service and the long-standing strong competition for carrier access services for business customers, Verizon does not retain a monopoly over either local service or carrier access.

34. Dr. Kelley claims that customers’ preferences for one-stop shopping give Verizon an incentive to conduct a price squeeze. His argument fails here too. Assume that the long-distance market is effectively competitive.<sup>39</sup> Also assume, in the base case, that local service is sold at cost. Suppose that Verizon could earn an extra \$X from every customer that it could get who prefers one-stop shopping. It would have to reduce the profitability of each of these customers to other carriers by at least \$X to prevent other carriers from bidding those

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with Section 271 of the Federal Telecommunications Act of 1996, Docket No. 97-SWBT-411-GIT (July 19, 2000), pp. 17-18.

<sup>38</sup> Evaluation of the Massachusetts Department of Telecommunications and Energy, *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon Global Networks Inc., for Authorization under Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 00-176 (October 16, 2000) at 213.

<sup>39</sup> I make this assumption solely for simplicity and so we can isolate what assumptions drive the results.



customers away. Theoretically, there are three ways to accomplish that. First, it could charge no premium for the bundled offering. However, that solution would also eliminate the profitability of the bundled offering. (Verizon would not want to reduce the retail price by more than \$X because doing so would generate negative profits from the bundled service. Thus, under these assumptions, Verizon would have no incentive to conduct that kind of price squeeze.) Second, regulators set UNE rates, and, even if Verizon could increase UNE rates above costs, doing so would increase the incentive for facilities-based competition. Third, Verizon could continue pricing intrastate access above costs. However, that strategy also encourages increased local competition: a competitor could duplicate the bundled offering using UNEs or its own facilities and thereby collect both one-stop shopping premium and the access profits itself. At the end of the day, Dr. Kelley's argument does not work. In addition to the logical problems with his argument, there is the important contradiction between his assertion of what could happen and what is actually happening. In New York, after Verizon's entry into the long-distance market, long-distance prices are lower, there is no price squeeze, and local exchange competition has been rapidly increasing.

35. Dr. Kelley dismisses the evidence of an absence of price squeezes where local exchange carriers have entered the long-distance market. He does not accept the evidence of Verizon's refraining from a price squeeze in New York, since he thinks it is because Verizon wants to gain approval of Section 271 applications in its other states, among other reasons. Yet, until SBC acquired SNET, SNET would not have put any Section 271 applications in jeopardy if it had pursued anticompetitive policies such as price squeezes. If anything, in other proceedings the interexchange carriers have argued—as Kelley asserts—that SNET's long-distance prices are higher than other carriers' offerings and thus cannot be treated simultane-

ously as anticompetitively too low. In addition, recall that Sprint and several other independent local exchange carriers have both local exchange and long-distance operations. Further, Sprint's and other independents' access charges tend to be much higher than Verizon's access charges. If Dr. Kelley's price-squeeze theory were correct, then Sprint and the other independents should have had much stronger incentive to conduct a price squeeze than Verizon ever would. Dr. Kelley argues that, with small geographic scope, the independents have less of their traffic that both originates and terminates in their territories. That is often true. However, the independents also tend to have originating access charges that equal or exceed the sum of Verizon's originating and terminating access charges, especially for interstate access service. So, where are all the complaints about price squeezes from Sprint and the other non-Bell ILECs that provide long distance service?

**B. Experience in Other Markets Demonstrates That Systematic Discrimination Is Unlikely.**

36. Dr. Kelley argues with my evidence about the rarity of discriminatory behavior by the local exchange carriers when they have entered other markets, such as intraLATA toll, cellular service, and information services. Dr. Kelley (§ 44) criticizes the Bell operating companies for not speedily implementing equal access for intraLATA toll but conveniently forgets that the Modified Final Judgement did not require equal access for intraLATA toll,<sup>40</sup> and that a reasonable public policy argument could be made that requiring competitors to use dial-around methods for intraLATA toll would roughly compensate for the BOCs' interLATA

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<sup>40</sup> Modification of Final Judgment § IV(F), reprinted in *United States v. AT&T*, 552 F. Supp. 131, 227 (D.D.C. 1982) (Decree); "...under the decree the Operating Companies are not expressly obligated to provide any exchange access to their carriers for intra-LATA toll service." *U.S. v. Western Elec. Co., Inc.*, 569 F. Supp 990, 1004 (D.D.C. 1983).

prohibition. He ignores the important difference between public disagreements regarding what public policy should be and unlawful discrimination against competitors. He asserts that the Bell operating companies engaged in price squeezes in intraLATA toll markets, but he fails to supply any supporting facts.

37. Dr. Kelley dismisses the case of corridor traffic because, in his view, customers could not presubscribe to BOC corridor long distance service and that cross-subsidy and discrimination would be unlikely to overcome this handicap. However, price competition in these markets was evidently sufficient to overcome this handicap, as AT&T filed with the FCC for permission to reduce its rates just in the northern New Jersey-New York corridor where Bell Atlantic was allowed to compete—but not in other places where it could not—and MCI joined in the request so that it, too, could meet the competition.<sup>41</sup>

38. Dr. Kelley implies that SNET must have acted anticompetitively to gain its large market share, but he gives no evidence. Kelley Decl. ¶ 46. Instead, again without support, he asserts that SNET's prices were higher than those of its rivals. As I already showed, SNET's prices were substantially lower than AT&T's prices, especially for low-volume customers. Taylor Decl. ¶ 15, Att. C. Dr. Kelley does not rebut that evidence. Moreover, SNET's pricing prompted AT&T to respond by instituting a new intrastate toll discount promotion. Effective May 21, 1996, AT&T began offering all direct intrastate calls for only five cents per minute guaranteed for a full year regardless of the time of day *but only to customers subscribing to their interstate long distance services*.<sup>42</sup> Rate averaging rules prevent AT&T from lowering its

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<sup>41</sup> See fn. 31, *supra*.

<sup>42</sup> *AT&T Offers 5 Cent Rate in Connecticut*, Business Wire, May 1996.

interstate rates in Connecticut without also lowering rates elsewhere. Thus, this competitive response enabled AT&T to respond to SNET's lower rates without lowering interstate prices in states where it did not face competition from incumbent local exchange carriers. The fact that AT&T undertook this program to meet competition in Connecticut implies that AT&T believed SNET's interstate prices to be lower, and SNET's lower prices certainly would have contributed to the major inroads SNET made into AT&T's residential market. Dr. Kelley speculates instead that SNET's success was caused by its decision to stop billing for AT&T. However, Dr. Kelley neglects to mention that AT&T had already announced its intention to provide its own billing anyway, and, in any case, the FCC has classified billing and collection services as competitive and not requiring regulation. Clearly, billing is not an essential service, so that SNET's long distance success cannot be attributed to AT&T's voluntary assumption of its billing and collection function.

39. Dr. Kelley's dismissal of experience in the cellular market is off base. First, he criticizes my evidence that non-wireline cellular carriers have no lower market share than the wireline cellular carriers: he claims that the two cellular carriers in each market were capacity-constrained, so anticompetitive actions would not have been profitable. To the contrary, capacity did not become a problem until shortly before the Personal Communications Services ("PCS") spectrum auctions, and then primarily in the largest metropolitan markets. The studies I cite used data for a period before spectrum capacity was a significant problem. In any case, a "capacity constraint" is a misleading term in the cellular business because a cellular carrier can increase capacity by adding cell sites. Second, he claims that, before the PCS spectrum auctions, the two "cellular carriers could charge supracompetitive prices without the need to discriminate further." Kelley Decl. ¶ 48. Even if they could have charged supracompetitive

prices, it does not follow that, *for that reason*, additional anticompetitive behavior would not have been profitable.

40. Dr. Kelley also cites early cellular interconnection disagreements about whether cellular carriers should be interconnected with the public switched network like a carrier or like a business customer. That discussion is a red herring. At the end of the day, whatever the outcome of the dispute, both the wireline cellular carrier and the non-wireline cellular carrier would have been interconnected with the public switched network in the same way. Thus, the dispute can have no bearing on potential discrimination in favor of the wireline cellular carriers. As I discussed before, the confirmation is in the lack of difference in the market shares of wireline and non-wireline cellular carriers.

41. Additionally, Dr. Kelley's comments regarding BOC activity in the information services arena fail to establish any anticompetitive conduct. Kelley Decl. ¶ 49. He suggests that BOC entry into the information services business harmed competition because BOCs resisted any meaningful unbundling for information services. *Id.* Dr. Kelley is obviously referring to the long line of *Computer Inquiry III* and *Open Network Architecture* decisions. *See Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, 104, FCC 2d 958 (1986). However, neither the Commission nor the Courts have ever found that Verizon or any other BOC has failed to unbundle any underlying telecommunications service to any enhanced service provider when a provider established that such service was necessary to enable it to provide its own enhanced services product.

42. Dr. Kelley points to a single state commission decision regarding a BOC other than Verizon to support his claim that BOC entry into the information services market resulted

in anticompetitive conduct. Kelley Decl. ¶ 50, citing *The Commission's Investigation into Southern Bell Telephone and Telegraph Company's MemoryCall Service*, Order of the Georgia Public Service Commission, Dkt. No. 40000-U (June 4, 1991). In the *MemoryCall* case, the Georgia Commission found that BellSouth had engaged in anticompetitive conduct in the voicemail industry. That finding, however, was never successfully litigated at either the Commission or any other state. Moreover, the Commission later found that the Georgia Commission's *MemoryCall* decision unlawfully barred BellSouth from offering its voice mail service to new customers because it applied a state determination to an interstate enhanced service and thereby displaced the requisite federal public interest determination. See *Petition for Emergency Relief and Declaratory Ruling Filed by BellSouth Corporation*, Memorandum Opinion and Order, 7 FCC Rcd 1619 (1992). Regardless, the continued participation of the BOCs in the voice mail market certainly has not resulted in reduced competition. In fact, the opposite has occurred. Taylor Decl. ¶ 31.

43. In conclusion, the pattern here is clear. Over various periods of time—long and short—incumbent local exchange carriers and entrants have competed in various telecommunications markets, including corridor toll, intraLATA toll, wireless services, interLATA toll, information services and CPE. While entrants and ILECs may have disagreed on public policies in some of these markets and may have disputed whether particular actions were anticompetitive, it is undeniable that *customers* have been made better off by the process. Prices have fallen in response to competition in each of these markets, demand has expanded, new services have been introduced and consumer welfare has increased immeasurably. As a process, competition is clearly working to the benefit of consumers, and there is no evidence in

these markets that opening them to competition from incumbent local exchange carriers has resulted in any diminution of competition.

## **VI. CONCLUSION**

44. For all the reasons outlined above, Verizon's entry into the long distance business in Massachusetts will produce enormous public interest benefits with no significant risk of harm to competition in any market.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 31, 2000

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William E. Taylor



